

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

*In the Matter of* )  
 )  
Sinclair Broadcast Group, Inc. )  
Cunningham Broadcasting Corporation )  
Deerfield Media (Baltimore), Inc. )  
 )  
*Ultimate Parent Companies of the* )  
*Licensees of Digital Television Stations* )  
 )  
WBFF(TV), Baltimore, MD )  
WNUV(TV), Baltimore, MD )  
WUTB(TV), Baltimore, MD, )  
 )  
*Respectively.* )  
 )

**CUNNINGHAM BROADCASTING CORPORATION’S OPPOSITION TO  
THE PETITION TO TERMINATE MEDIA BUREAU INVESTIGATION  
AND REQUIRE EARLY FILING OF RENEWAL APPLICATIONS**

Cunningham Broadcasting Corporation (“Cunningham”) hereby opposes Ihor Gawdiak’s “Petition to Terminate Media Bureau Investigation and Require Early Filing of Renewal Applications,” filed July 22, 2019 (the “Informal Request”)<sup>1</sup>. As detailed below, Mr. Gawdiak lacks standing to file the Informal Request, which—in any event—does not identify any reason to require Cunningham to file an early license renewal application for station WNUV, Baltimore, Maryland. Indeed, the Informal Request fails to even state a reason why renewal of WNUV’s license (when the time comes for the FCC to consider that in the ordinary course) is not in the public interest. The Commission should therefore promptly dismiss or deny the Informal Request.

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<sup>1</sup> Petitions seeking to require early license renewal applications have been treated by the Commission as “informal requests for Commission Action” under 47 C.F.R. § 1.41. *See Leflore Broadcasting Company, Inc.*, 36 FCC 2d 101, ¶ 1 n.2 (1972).

Informal Requests seeking to require early license renewal filings are held to the same strict pleading standards as petitions to deny.<sup>2</sup> Pursuant to Section 1.939(d) of the Commission's Rules, "A petition to deny must contain specific allegations of fact sufficient to make a prima facie showing that the petitioner is a party in interest and that a grant of the application would be inconsistent with the public interest, convenience and necessity."<sup>3</sup> The Rules further require that each allegation of fact be supported with an affidavit from a person with personal knowledge.<sup>4</sup>

While the Informal Request states that "Petitioner is a party-in-interest,"<sup>5</sup> it wholly fails to allege any facts to support that claim. It instead appears to rely on the convoluted theory that the filing of the Informal Request itself provides a basis to treat Mr. Gawdiak as party-in-interest. *See* Informal Request at 7. It does not. To demonstrate party-in-interest status, Commission rules and precedent require allegations of fact sufficient to show that grant of the subject application would cause the filer to suffer "direct injury."<sup>6</sup>

The Informal Request fails to allege any facts that demonstrate that renewal of WNUV's license would be contrary to the public interest, much less that it would cause Mr. Gawdiak to suffer any direct injury. Rather, the Informal Request asserts, without explanation, that requiring the early filing of WNUV's license renewal application is necessary to preserve Mr. Gawdiak's

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<sup>2</sup> *See, e.g., Greater Portland Broadcasting Corporation*, 3 FCC Rcd 1953, 1954 (1988) ("*Greater Portland*").

<sup>3</sup> 47 C.F.R. § 1.939(d); *see also* 47 U.S.C. § 309(d)(1) ("The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with subsection (a) (or subsection (k) in the case of renewal of any broadcast station license).").

<sup>4</sup> 47 C.F.R. § 1.939(d); 47 U.S.C. § 309(d)(1).

<sup>5</sup> Informal Request at 7.

<sup>6</sup> *Applications of Lawrence N. Brandt & Krisar, Inc.*, 3 FCC Rcd 4082 (1988) (citing *Sierra Club v. Morton*, 405 U.S.C. 727, 733 (1972)).

“right to participate in a full hearing on the matters raised” in a Hearing Designation Order (“HDO”) issued in connection with Sinclair Broadcast Group Inc.’s proposed acquisition of Tribune Media Company. Informal Request at 2.

Setting aside questions about whether Mr. Gawdiak has any “right” to participate in a hearing related to matters raised in the HDO,<sup>7</sup> the HDO had no bearing on Cunningham’s qualifications to be a Commission licensee. More specifically, the HDO had nothing to do with WNUV, and does not affect Mr. Gawdiak’s ability to file a petition to deny WNUV’s license renewal application in the ordinary course.

In addition to failing to allege any facts relevant to WNUV, the Informal Request also lacks an affidavit from any person with personal knowledge to support the facts alleged therein, as is required for such a request.<sup>8</sup> One can only assume the unsupported allegations contained in the Informal Request were pulled from unverified claims made either in other third parties’ filings submitted in the Sinclair-Tribune merger docket, the HDO, or in related trade press, but the Informal Request’s complete lack of citations or supporting affidavits makes it difficult to even know the source of the asserted factual claims.

What is clear is that Mr. Gawdiak has no personal knowledge of any of these asserted “facts.” Instead, Mr. Gawdiak’s declaration asserts only that he is a resident of Columbia, Maryland who watches WNUV and intends to file a petition to deny its license renewal application when that opportunity arises (as it will in the normal course). Those assertions are

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<sup>7</sup> A review of Docket No. 17-179 in the Commission’s Electronic Filing System reveals that Mr. Gawdiak did not submit any filings to oppose the Sinclair-Tribune transaction and did not file a notice to appear as a party to the related administrative hearing. It is thus unclear to Cunningham why Mr. Gawdiak believes he has a right to participate in a full hearing on issues raised in the HDO, and the Informal Request does not provide any explanation or legal basis to support Mr. Gawdiak’s claim.

<sup>8</sup> See Note 2, *supra*, and associated text.

patently deficient to support a petition to deny any station's license renewal, much less to justify the extraordinary relief of requiring the early filing of a license renewal application. When seeking an early license renewal application filing, the requester must demonstrate that there are "serious" or "compelling reasons" to justify requiring an early filing.<sup>9</sup> The Informal Request entirely fails to do so.

### **Conclusion**

As Mr. Gawdiak lacks standing, and the Informal Request fails to present any information indicating that renewal of WNUV's license in the normal course is not in the public interest, much less that meets the yet higher bar of demonstrating a "compelling" reason to require the early filing of WNUV's license renewal application, the Informal Request should promptly be dismissed or denied.

Respectfully submitted,

/s/ Scott. R. Flick  
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*Counsel to Cunningham Broadcasting Corporation  
and Baltimore (WNUV-TV) Licensee, Inc.*

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<sup>9</sup> *Greater Portland*, 3 FCC Rcd at 1954.

**CERTIFICATE OF SERVICE**

I hereby certify that on August 2, 2019, true and correct copies of the foregoing Opposition were sent via first-class mail, postage prepaid, to the following:

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/s/ Joseph A. Cohen  
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## DECLARATION

I, Michael Anderson, do hereby declare under penalty of perjury that the following is true and correct:

1. I am President and Chief Executive Officer of Cunningham Broadcasting Corporation.

2. I have reviewed the foregoing “*Opposition to the Petition to Terminate Media Bureau Investigation and Require Early Filing of Renewal Applications.*” The facts stated therein, except those based on official records or other documents of which the Federal Communications Commission may take official notice, are true to the best of my personal knowledge and belief.



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Michael Anderson

Dated: 8.2.19